

The record contains an accident report dated December 31, 2008 completed by Raymond Berg, a postmaster at the employing establishment. Mr. Berg noted that appellant felt tingling

and pain in both wrists in June 2007. He indicated that she used braces to relieve the pain. Mr. Berg also advised that appellant underwent carpal tunnel surgery for both wrists in November 2007. A December 31, 2008 incident report also completed by Mr. Berg reiterated that appellant felt tingling and pain in her wrists in June 2007 and that she used braces to relieve the pain. He noted that appellant had carpal tunnel syndrome. The record also contains a job description for a “sales, services and distribution associate.”

On January 9, 2009 the Office advised appellant of the factual and medical evidence necessary to establish her claim and allowed her 30 days to submit additional evidence. In particular, the Office requested a detailed description of the employment-related activities that appellant believed contributed to her condition. It also requested a medical report with a physician’s opinion on whether appellant’s work activities contributed to her diagnosed condition.

In a February 25, 2009 decision, the Office denied appellant’s claim finding the evidence was insufficient to establish that the events occurred as alleged. It also found there was no medical evidence with a diagnosis that was connected to the claimed events.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an “employee of the United States” within the meaning of the Act; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.¹

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.²

A claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that a claimed medical condition was caused or adversely affected by employment factors. This burden includes the submission of a detailed description of the employment factors or conditions, which the claimant believes caused or adversely affected the condition or conditions for which compensation is claimed. If a claimant does establish an employment factor, she must submit medical evidence showing that a medical condition was

¹ *J.E.*, 59 ECAB ____ (Docket No. 07-814, issued October 2, 2007); *Elaine Pendleton*, 40 ECAB 1143 (1989).

² *D.I.*, 59 ECAB ____ (Docket No. 07-1534, issued November 6, 2007); *Roy L. Humphrey*, 57 ECAB 238 (2005).

caused by such a factor.³ It is the claimant's responsibility to prove that work was performed under these specific conditions at the time, in the manner and to the extent alleged.⁴

ANALYSIS

As noted, three criteria must be established in an occupational disease claim. However, appellant has not established any of the required criteria to establish her claim.

Regarding the first criteria, appellant's CA-2 form alleges carpal tunnel syndrome in both wrists. However, the record does not contain any medical evidence diagnosing this condition. The accident and incident reports dated December 31, 2008 from Mr. Berg noted that appellant had carpal tunnel syndrome in June 2007 and that she underwent surgery for that condition in November 2007. However, neither report constitutes medical evidence, as they are not from a physician.⁵

Appellant also has not identified employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition. Appellant's CA-2 form states that repetitive work with mail caused her claimed carpal tunnel syndrome. She does not identify any particular work assignments or describe the type of job duties that she believed caused or aggravated her condition. In addition, appellant does not indicate which of the duties listed in the employing establishment's job description caused or aggravated her carpal tunnel condition. Despite the fact that the Office's January 9, 2009 letter advised appellant of the factual and medical evidence necessary to establish her claim, appellant failed to provide such evidence establishing a diagnosed medical condition and identifying specific work activities that caused her claimed condition. Appellant also did not submit any medical evidence supporting that particular employment factors from her job caused or contributed to the claimed carpal tunnel syndrome.⁶

For these reasons, the evidence of record is insufficient to meet appellant's burden of proof to establish that she sustained a carpal tunnel condition as alleged in the performance of duty.

On appeal, appellant asserts that the repetitive nature of sorting mail caused her carpal tunnel syndrome and that the medical evidence was filed incorrectly because of confusion among

³ *Effie Morris*, 44 ECAB 470 (1993).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Development of Claims*, Chapter 2.800.3(a) (April 1993) (in occupational disease cases, the claimant must submit evidence to identify fully the particular work conditions alleged to have caused the disease); *see also L.B.*, 59 ECAB ____ (Docket No. 07-1748, issued December 18, 2007) (stating that the claimant has the burden of proof to identify employment factors believed to have caused or aggravated a claimed employment-related condition).

⁵ *See* 5 U.S.C. § 8101(2) (defining the term "physician"); *see also Charley V.B. Harley*, 2 ECAB 208 (1949) (the Board held that medical opinion, in general, can only be given by a qualified physician).

⁶ In any event, until appellant identifies work factors alleged to have caused her claimed injury, it is not necessary for the Office to consider the medical evidence regarding causal relationship. *See S.P.*, 59 ECAB ____ (Docket No. 07-1584, issued November 15, 2007); *Bonnie Contreras*, 57 ECAB 364 (2006).

her treating physicians. As noted, it is appellant's burden of proof to provide to the Office a detailed description of the employment activities alleged to have caused her condition as well as medical evidence establishing the claimed condition and providing an opinion on causal relationship.⁷ None of the necessary evidence was in the record prior to the Office's February 25, 2009 final decision.⁸ Appellant also asserts that she did not receive the Office's January 9, 2009 letter requesting additional information. The Board has found that, in the absence of evidence to the contrary, a letter properly addressed and mailed in the due course of business, such as in the course of the Office's daily activities, is presumed to have arrived at the mailing address in due course. This is known as the mailbox rule.⁹ As the Office's January 9, 2009 letter was mailed to appellant's address of record and was not returned as undeliverable, it is presumed the letter arrived at her mailing address.

CONCLUSION

The Board finds that appellant did not meet her burden of proof in establishing that she sustained an occupational disease in the performance of duty.

⁷ See *supra* notes 3 and 4.

⁸ Appellant submitted new evidence on appeal. However, the Board may only review evidence that was in the record at the time the Office issued its final decision. 20 C.F.R. § 501.2(c).

⁹ C.T., 60 ECAB ____ (Docket No. 08-2160, issued May 7, 2009).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated February 25, 2009 is affirmed.

Issued: November 19, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board